

Congress of the United States
House of Representatives
Washington, DC 20515

January 17, 2001

The Honorable David M. Walker
Comptroller General
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Walker:

We are writing with reference to the report by the U.S. General Accounting Office (GAO), Securities Arbitration: Actions Needed to Address Problem of Unpaid Awards (GAO/GGD-00-115, June 15, 2000), and the Securities and Exchange Commission's (SEC) January 2, 2001, progress report on steps that have been taken by SEC and the self-regulatory organizations (SROs) in response to GAO's recommendations.

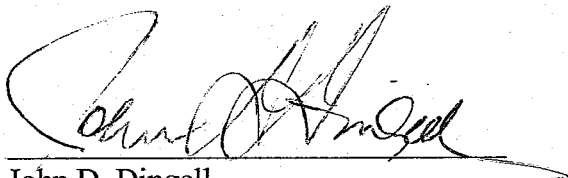
GAO found that a stunning 49 percent of the arbitration awards won by investors in 1998 went unpaid. In cash terms, investors have not collected on some \$129 million in damages, roughly 80 percent of the \$161 million that arbitration panels ordered the securities industry to pay to customers that year. Twelve percent of awards were only partially paid. More than half of broker-dealers who failed to pay at least partially said they had gone out of business; nearly one-third said they were unable to pay; and, in some cases, individual brokers could not be found. GAO made a series of recommendations to address this abominable state of affairs.

We are transmitting the SEC's progress report and asking for GAO's evaluation of the steps that have been taken by SEC and the SROs. Among other things, the SEC has changed its investor education materials and inspection protocol to address unpaid awards and is working with the SROs to implement other changes recommended by GAO. For example, NASD staff is developing a proposed rule to preclude a firm that has been terminated, barred, or suspended, or that is otherwise defunct, from enforcing a predispute arbitration clause against a customer, allowing the customer the option of recourse through the courts. Expedited procedures in some state courts, in narrow circumstances, permit the attachment of assets that might otherwise be dissipated if the investor had used the arbitration process. Also please advise whether there have been any changes in the collection rate in the interim which would suggest the need for additional reforms.

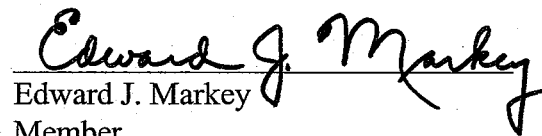
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Lastly, we are transmitting a copy of a July 7, 2000, comment letter we received from Texas securities arbitration attorney William Shepherd, stating that he is "appalled by the insipid and wholly inadequate recommendations made to Congress" by GAO. After noting that "most brokers are honest and a huge percentage of the actionable fraud is being perpetrated by the proliferating 'sweat shops' and their brokers," Mr. Shepherd offers three recommendations dealing respectively with clearing firms, introducing firms, and the Securities Investor Protection Corporation. We are unable to endorse these suggestions at this time but request that you consider their efficacy in connection with separate work that you are doing on those specific subjects. We do note, however, our strong agreement with Mr. Shepherd's closing point: "The important task which should be accomplished is for fraud to be cost prohibitive to the crooks and their accomplices before the fraud occurs, not to the victims after the fact." We appreciate GAO's continued efforts to assist us in protecting America's investors.

Sincerely,



John D. Dingell
Ranking Member
Committee on Energy and Commerce



Edward J. Markey
Member
Committee on Energy and Commerce

Enclosures

cc: The Honorable W. J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce

The Honorable Arthur Levitt, Jr., Chairman
Securities and Exchange Commission